



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### Second County Assembly – Second Session

Tuesday 27<sup>th</sup> June, 2018

The House met at 2.30 p.m.

*(Hon. Silas Matara, Temporary Speaker, in the Chair)*

#### PRAYER

**Hon. Temporary Deputy Speaker:** Clerk, proceed.

#### STATEMENTS

**Hon. Temporary Deputy Speaker:** We have a statement from Hon. Daniel Ngengi. Is the Member in the House? Proceed.

**Hon. Daniel Muturi:** Thank you very much Mr. Speaker. Hon. Speaker, pursuant to Standing Order 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Planning and Housing regarding the status of the land on which the Retail Market in the City sits.

Hon. Speaker, the land on which the famous Retail Market sits is public land LR No. 209/8409. There have been attempts in the past to grab the said land, including its mention in the Ndungu Land Report on land illegally allocated in Nairobi City. The National Land Commission has since cancelled the title. However, the Market is currently fenced off and it's alleged that title has been issued for extension of the said Market.

Hon. Speaker, in the statement, the Chairperson should inquire into and report on:-

- i) Whether the title was ever cancelled and the land reverted back to the Public by the National Land Commission;
- ii) The current Status of the land on which Retail Market sits;
- iii) Whether the Market in question has been disposed of, and if yes; and
- iv) The authorization for the said disposal of the public land, including tabling of documentation to that effect.

Hon. Speaker, I have another statement to read.

Pursuant to Standing Order 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Planning and Housing and the Chairperson of the Sectoral Committee on Justice and Legal Affairs regarding the controversial sub-division and privatization of part City Market.

Hon. Speaker, in 1928, the then Colonial Government of Kenya granted the current City Market under L.R No. 209/1855 covering approximately 1.582 acres to the then Nairobi Municipal Corporation of Nairobi for a period of 99 years from 1<sup>st</sup> August, 1928 for establishment of a Municipal Market. Subsequently, in the early 1990s the plot L.R No. 209/1855 was sub-divided and two parcels created from it; L.R. No. 209/1855/1 and L.R. No. 209/1855/2 for Public Market Dome and Food Court respectively.

Hon. Speaker, on 22<sup>nd</sup> December 1992 the then Nairobi City Council irregularly transferred the plot L.R. No. 209/1855/1 to Market Plaza Limited for private development leaving plot L.R. No. 209/1855/2 for the City Market. Further, on 22<sup>nd</sup> May, 2007 the then City Council of Nairobi executed a 10 years contract lease of the Market under L.R. No. 209/1855/1 to Vineyard Holding Ltd associated with one Mr. Nyamu until 2017 which resulted to traders being issued with 45 days eviction notice.

Hon. Speaker, in 2010, the then Ethics and Anti-Corruption Commission (EACC) alongside the Ministry of Lands investigated the matter and found the property to have been illegally allocated and directed that the titles be revoked under Gazette Notice 15580 of 26<sup>th</sup> November 2010 and that the property be reverted to the public to be held in trust by the then Nairobi City Council.

Hon. Speaker, in 2011, Market Plaza Ltd challenged the revocation of the property L.R. No. 209/1855/1 in court under JR No. 18/2011 which was subsequently dismissed in 2016 by Court. Hon. Speaker, it is again from the judicial dismissal that Market Plaza Limited further appealed on the matter in 2017.

Hon. Speaker, the said property L.R. No. 209/1855/1 had been gazetted by the Minister of State for National Heritage and Culture vide gazette notice No. 5024 of 22<sup>nd</sup> May 2017 as a National Monument prohibiting structural development in the premises. This was however not challenged by Vineyard Holdings Ltd.

Subsequently, Hon. Speaker, Market Plaza Ltd moved to court of appeal under the application No. 219/2016 seeking order of temporary injunction forbidding Nairobi City County and Market Association from entering the property which was declined by the Court.

Hon. Speaker, in the statement, the Chairpersons should inquire into and report on:-

- i) How and why the property L.R No. 209/1855 was sub-divided to L.R. No. 209/1855/1 and L.R. No. 209/1855/2 and subsequently privatized to Market Plaza Ltd and Vineyard Holdings Ltd. Respectfully?
- ii) Why Vineyard Holdings Limited has been trying to develop the property and evicting genuine traders after the titles were revoked and having not challenged the matter in court?
- iii). Why the two properties plot L.R. No. 209/1855/1 and plot L.R. No. 209/1855/2 have not been merged under the mother title as directed in the then EACC and Ministry of Land's Gazette Notice 15580 of 26<sup>th</sup> November 2010?

- iii) Measures taken by the County to repossess the property in view of the Court Order dismissing the application by the Market Plaza to assume possession of the property, given that the Company does not have any temporary injunction over the property.
  - iv) Measures taken by the County to ensure the illegally allocated land as per the Ministry of Lands and EACC as per the Gazette Notice 15580 of 26<sup>th</sup> November 2010 in 2010 is reclaimed?
  - v) Measures taken by the County to fix the matter for hearing and final determination by the Court?
- Thank you very much Mr. Speaker.

**Hon. Abdi Hassan:** Thank you Mr. Speaker. I just needed some clarification on Hon. Ngingi, my good friend. Hon. Ngingi is a member of Planning Committee and he is asking himself the question. He is the one who is supposed to produce answers to this House pertaining planning matters. Now he is the one who is asking himself questions. We need clarification on the same.

**Hon. Temporary Deputy Speaker:** I will guide later. Let him just proceed. Proceed, Hon. Ngingi.

**Hon. Daniel Muturi:** I have finished my statement. What I would like to state is that with all due respect to my able Majority Leader, I do understand it is good practice that if a Member provides the necessary information. I would like to inform the Hon. Leader of Majority that this is a very weighty matter and it touches the heart of Nairobi. Some of these are national monuments and needs very special attention and that is why I brought the matter to the Assembly so that I can also deal with it in the committee. Thank you.

**Hon. Temporary Deputy Speaker:** Are you satisfied, Leader of Majority?

**Hon. Abdi Hassan:** Thank you Mr. Speaker sir. As much as the matter is weighty, the question here is, who is supposed to answer that question? Isn't it the Planning Committee?

**Hon. Temporary Deputy Speaker:** Just as I said, I will offer guidance. So, Chairpersons, Sectoral Committee on Planning and Housing and Sectoral Committee on Justice and Legal Affairs, with regards to the statement by Hon. Daniel. Is the Vice Chair of that Committee here?

**Hon. Peter Imwatok:** Mr. Speaker, we will be violating the doctrines of this House if a Member of the same Committee questions the jurisdictions of the same Committee that he sits on. I would wish, on your wisdom, that you redirect the Member to redirect the question to the Committee that he sits on so that they deliberate and it becomes a report from the Committee and not as an individual. Because by doing so, it means every Member will come up with a statement on his own committee. That is the right procedure.

**Hon. Temporary Deputy Speaker:** Hon. Minority Whip, I have just made a statement that I will give guidance later on. Kindly be patient. Vice Chair, planning.

**Hon. Ruth Ndumbi:** On behalf of my Chair, I want to clarify to Hon. Ngingi that he is a Member of the Committee. If we are taking this matter to our Committee, I am sure we will chase Ngingi out of the Committee and then we finish the matter. We will respond within two weeks. Thank you.

**Hon. Temporary Deputy Speaker:** Hon. Ngingi, are you satisfied with the response to the first statement? Are you satisfied?

**Hon. Daniel Muturi:** I am satisfied.

**Hon. Temporary Deputy Speaker:** Chairperson, Planning, the second statement is regarding the status of the land on which the Retail Market sits. So, the Hon. Member representing the Committee can respond to this second statement. Yes, Hon. Ayot. What is the Point of Order?

**Hon. Cecilia Ayot:** Hon. Speaker, if you responded by saying that you will give direction, then it is not in order to proceed with the issues in regards to that statement.

**Hon. Temporary Deputy Speaker:** I haven't given the direction, Hon. Member. The Hon. Member representing the Committee, can you respond to the second statement? Hon. Ndumbi or another Member? Hon. Daniel had two statements on the Order Paper.

**Hon. Ruth Ndumbi:** Thank you Mr. Speaker. Two weeks.

**Hon. Temporary Deputy Speaker:** Hon. Daniel, are you satisfied with the second response?

**Hon. Daniel Muturi:** Hon. Speaker, I am satisfied.

**Hon. Temporary Deputy Speaker:** With regards to that matter, I direct that the matter be referred to the Committee and you do a report to the House in two weeks.

**Hon. Peter Imwatok:** Hon. Speaker, with all wisdom and humility, you just pronounced yourself that you are giving directives on the issue of a Member of a committee asking his own Committee a question. But now it seems you have already given a clearance for the same procedure to proceed. Can you guide us more?

**Hon. Temporary Deputy Speaker:** I just made a guidance that the issue be handled at the Committee level after which they are going to do a report to the House.

**Hon. Peter Imwatok:** Mr. Speaker, the issue was, is it right for a Member of a respective committee to ask---

**Hon. Temporary Deputy Speaker:** Hon. Whip, with due respect, I have already given instructions. Kindly have your seat. Yes, Hon. Member.

**Hon. Kennedy Oyugi:** Mr. Speaker, with due respect, we are setting a very bad precedent through your Chair. It is an illegality and unprocedural. You should have put it straight that it is wrong—

**Hon. Temporary Deputy Speaker:** I have already dispensed with that matter. Kindly have your seat.

**Hon. Kennedy Oyugi:** Mr. Speaker, kindly accept that---

**Hon. Temporary Deputy Speaker:** Kindly have your seat.

**Hon. Kennedy Oyugi:** Mr. Speaker, you are wrong and you must accept it.

**Hon. Temporary Deputy Speaker:** No, have your seat. I have already dispensed with that matter. With all due respect, you are out of order. Have your seat. I have already dispensed with that matter. Let us proceed. Statement by Hon. Jayendra Malde.

**Hon. Jayendra Malde:** Thank you Mr. Speaker. Pursuant to Standing Order 41 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Planning and Housing regarding the grabbing of public lands LR Nos. 209/6260 and 209/6261 by a private developer along 3<sup>rd</sup> Parklands Avenue.

Hon. Speaker, a portion of the High Ridge Clinic's 2.1 acre land has been grabbed by a private developer and this has immense effects on the operations of the said facility.

Hon. Speaker, in the statement, the Chairperson should inquire into and report on:-

1. Who, if any, authorized the transfer of ownership of public land to a private developer; and
2. Detailed records of the status of ownership of the said land.

Thank you Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Chairperson, committee on planning and housing, regarding the grabbing of public land LR Nos. 209/6260 and 209/6261 by a private developer along 3<sup>rd</sup> Parklands Avenue. Vice Chair or Member?

**Hon. Ruth Ndumbi:** We will respond in three weeks. Thank you.

**Hon. Temporary Deputy Speaker:** Hon. Jayendra, are you satisfied with the response?

**Hon. Jayendra Malde:** Hon. Speaker, three weeks is a very long time. Can we have the report within a week?

**Hon. Temporary Deputy Speaker:** Representative of the Committee?

**Hon. Peter Warutere:** Hon. Speaker, I stand guided on this very important matter. As much as I would want this issue dealt with by the Planning Committee, the matter as well touches on matters health. It is about a clinic and with your guidance, I would ask that we have a joint sitting between Health and Planning Committees.

**Hon. Temporary Deputy Speaker:** Hon. Jayendra, are you satisfied with the same?

**Hon. Jayendra Malde:** I am satisfied, Hon. speaker. Thank you.

**Hon. Temporary Deputy Speaker:** You had requested for a week. The person representing planning, are you comfortable with a week?

**Hon. Jayendra:** One week is okay.

**Hon. Temporary Deputy Speaker:** The question was to Hon. Ndumbi.

**Hon. Ruth Ndumbi:** I will consult the Hon. Members. We have to go for a visit and then we come back. I am sure we will be okay with two weeks. Thank you.

**Hon. Temporary Deputy Speaker:** Hon. Jayendra, are you okay with two weeks?

**Hon. Jayendra Malde:** I am okay with that.

**Hon. Temporary Deputy Speaker:** Thank you.

**Hon. Peter Warutere:** Hon. Speaker, I stand guided as I earlier said. I have said this matter touches on two committees and you have not dispensed off with my issue because that matter cannot be dealt with at that level alone. I want your indulgence on this because it is a multi-sectorial issue whereby the clinic falls on the health docket and the land falls on the planning docket. Therefore we must have a joint sitting between health and planning so that this matter can be dispensed off with immediately.

**Hon. Temporary Deputy Speaker:** Yes Hon. Ndumi!

**Hon. Ruth Ndumi:** Thank you, Mr. Speaker, if the need is there when we shall be in our Committee of Planning we will invite the Chair of Health who maybe can invite his members. Thank you, Mr. Speaker.

*(Loud Consultation)*

**Hon. Temporary Deputy Speaker:** Order Members!

**Hon. Peter Imwatok:** Chairman!

**Hon. Temporary Deputy Speaker:** Yes Hon. Imwatak!

**Hon. Peter Imwatak:** I think with your wisdom and as I rightly put, this is an issue which has been a problem in this County and I believe the Public Accounts Committee in this report had dealt with this issue. It is also important that the consuming committee which is the Health Committee be part and parcel of this report because the issue of this clinic has been a perennial issue in this County.

Let's handle it once and also the PAC Chair should be part of that delegation making sure this site visit plus the Committee of Planning, Justice, Health and Implementation whether the report on PAC was extensively discussed so that we can get the root of this Speaker.

Also, amicus curiae should be incorporated into these fact findings. An ad hoc committee if possible can be instituted so that if this Committee fails to recapture back this clinic an ad hoc committee of this House can recapture this clinic for Nairobians. Thank You, Speaker.

**Hon. Temporary Deputy Speaker:** Hon Minority Whip, we cannot allow a matter that had been already dispensed by the Committee to be reopened in a different issue. Thank you. So, I direct that the Planning Committee have a discretion where to involve the other committees or not. If at all, the issues raised by Hon. Jayendra will not be conclusively handled by that Committee it is going to raise an issue in the floor on the House. Thank you. I have already dispensed the issue, Hon. Member.

Okay, Hon. Members I now wish to direct as follows, it is indeed true that our practice doesn't allow a Member to request for a Statement from a committee he sits in. The Majority Leader was right to bring the anomaly to the Speaker's attention, accordingly and keeping in our practice the statement requested by Hon. Ndege will be handled by the Committee at that level. Indeed the Hon. Members, I will presume the Member might not know about that practice.

The Statement will be dealt with as an agenda item by the Committee, so with the spirit of learning I will let this pass and have the statement forwarded to the relevant Committee. Going forward let this be learning a lesson that the Chair will not tolerate any such breach of practice in future. It is so directed thank you. Next Statement by Hon. Chege Mwaura!

**Hon. Chege Mwaura:** Thank you, Hon. Speaker I had a very tight morning and I have forgotten and I have this question. Hon. Speaker, pursuant to Standing Order 45 (2) (c) I wish to request for a Statement from the Chairperson of Sectoral Committee on Planning and Housing regarding the County's role in the recent assurances of 60,000 titles deeds in Nairobi Eastlands region.

Hon. Speaker, despite the value of the land in the area having gone up and most landowners in Eastlands which is Nairobi's most populated area have not benefited from the properties as they do not have titles and they have often been threatened by the risk of land grabbing, the uptake of titles isn't higher as we expected and more needs to be done.

Hon. Speaker, most of the landowners bought the parcels of land from land buying companies that only issued them with the allotment letters. Hon. Speaker, in the statement I wished that the Chairperson inquiries into and reports on:

- 1) The Process involved in requesting for a title deed and the plan from start to the eventual processing and issuance.



Secondly, Mr. Speaker, I would also request them to follow up on the implementation of the planning including the fees requirements and justifications of the same. For the benefit of the House it is important that they understand that there was a very good plan that the President of the Republic of Kenya in conjunction with the Governor of the County Government of Nairobi that was to ensure issuance of title deeds. But when the ordinary *mwanaichi* go for the title deeds there is a fee that is required and the process is not very clear on what is supposed to happen, the amount that it is supposed to be paid and once they pay to a specific advocate in term of sundry duties and all how long does it take to actually get the title deed. That is causing a lot of problem with the residents and Nairobians as a whole.

That is why there is a need for this important question. The Challenges experienced by the County in rolling out of that plan so that we know if you are going to the second phase what are the challenges experienced when you are doing phase one of the project. Secondly, number of proposed mechanisms to make the process smoother for *mwanaichi* to be guaranteed a friendly, fair and transparent process.

Hon. Speaker, if this program is going to go to the second phase we need as a House to understand where are the targeted areas, what are the initial requirement from the residents and the time frame it shall be rolled out so as we progress to the second phase the area that is going to be targeted and the people there start putting their documents in order so that they benefit from this process.

Hon. Speaker, that is the gist of the question and I sought your indulgence to expound so that the Members understand where we are coming from and what we want to achieve in these questions. Thank you, Hon. Speaker.

**Hon. Temporary Deputy Speaker:** Chairperson Sectoral Committee on Planning and Housing.

**Hon. Ruth Ndumi:** It is a very important question that *Mheshimiwa* Chege has just asked to give us two weeks please Mr. Speaker thank you.

**Hon. Temporary Deputy Speaker:** Hon. Majority Whip, are you satisfied with two weeks.

**Hon. Chege Mwaura:** There is no problem Mr. Speaker so long as we do not extend it unnecessarily. Let us keep it because there is a window that we said we are going to do and the program is going to run within this time.

I hope that the Committee will be hard on the Executive side to be able to give them concrete answers so that the Members and I know you are one of the Members that represents the Eastland area. So that when we are taking the information back to our areas it is a bit more concrete, but I am okay with two weeks it is sufficient thank you, Mr. Speaker.

**Hon. Moses Ogeto:** Thank you, Mr. Speaker, for giving me this opportunity. I am on a Point of Order under Standing Order number 193, Hon. Speaker, you have made a very serious ruling about the Committee of Planning and I have gone through this book which we are supposed to be guided. Hon. Speaker, I am a perplexed and confused atmosphere. Hon. Speaker, you know very well that within sixty days after the report has been tabled in the Assembly, the County Executive CEC Member should oversee the same report which has been tabled before the County Assembly to be implemented.

Standing Order 193 is very clear, but you have made a ruling which made this House to adopt a very serious report about the same property. It is good that we should be guided because in article 154 of the

Constitution is very clear therefore Hon. Speaker, your ruling sets a precedent in this House. I would wish you clarify to us if the reports tabled before this House, are not important. So, with your indulgence because we have been guided by this Standing Order.

**Hon. Temporary Deputy Speaker:** Hon. Ogeto, I think it is up to the Committee of Implementation to handle your matter, but with regards to the issue unless you are raising a specific issue we have already dispensed that matter, please.

**Hon. Moses Ogeto:** That is why Chair I am saying that we respect your ruling but the ruling that you gave before this House will bring a lacuna in the law and the office of the Clerk should advise accordingly, because within sixty days they should have tabled the report in this House then immediately the Implementation Committee will look into that matter. The matter that has been raised by my Chairman Hon. Malde was before this House and the same land was dispensed back to the County.

Hon. Speaker that is why I am saying in your wise ruling and wisdom so that we don't be in a lacuna by sending another Committee to go to the ground again to do another investigation which the same Committee has done already and the report was tabled in this House for sixty days that is my concern.

**Hon. Temporary Deputy Speaker:** Hon. Member just has just said it seems that Malde has emerging issues with regard to that matter and that is why the Member saw it fit to bring it into the House. Nevertheless, the Matter I think was conclusively discussed by the PAC Committee of which we cannot open discussion on the floor of the House. Statement by Hon. Benson Mwangi!

**Hon. Benson Mwangi:** Thank you so much, Hon. Speaker and my able Chief Whip also in his statement has raised concern which happens to be the same as one of my statements but regardless I will still read it.

Hon. Speaker, pursuant to Standing Order 45 (2) (c), I wish to request for a statement from the Chairperson of Sectoral Committee. I believe this is a House of rules and procedure so ....

**Hon. Temporary Deputy Speaker:** Hon. Ogeto, have your sit, please.

**Hon. Benson Mwangi:** I wish to request for a Statement from the Chairperson of Sectoral Committee on Justice and Legal Affairs, regarding the legal fee charged by external Advocates during the ongoing County filing exercise.

Hon. Speaker, County residents are being charged a legal fee of 30,000/= per title prepared by...

**Hon. Temporary Deputy Speaker:** Hon. Members Kindly, consult in low tones.

**Hon. Benson Mwangi:** Having prepared by external Advocates and the amount which is supposed to be revenue to the County. There is a likelihood that the Advocate is charging residents and at the same time raising fees that were to be paid by the County Executive.

Hon. Speaker the Chairperson should inquire into and report on:

- (1) How the external Advocate resource to prepare the leases and titles;
- (2) If there is any contract to that effect; and
- (3) Whether the County Executive is also paying their advocate legal fee or professional fee.

Hon. Speaker, I have another Statement which with your permission I would like to proceed.



**Hon. Temporary Deputy Speaker:** Chairman Sectoral Committee on Justice and Legal Affairs regarding the legal fee charged by External Advocated during the ongoing County filing exercise. Chair!

**Hon. Jayendra Malde:** Thank you, Hon. Speaker, can we be given two weeks so as to be able to investigate the matter.

**Hon. Temporary Deputy Speaker:** Hon. Benson, are you satisfied with the two weeks.

**Hon. Peter Imwatak:** Chair with your permission and the leadership of the House, where we have our Majority Leader inside this House, I think it is time the Chairperson should be very serious. Hon. Speaker I am seeing the synonymous two weeks, while our Standing Order gives a Committee seven days window to summon any respective witness before the Committee.

When we look at our calendar I don't know whether the Chairs under Liaison Committee do have Assembly's calendar, to know when we are going on our recess. This is because I am seeing a trend whereby every Chair stands and says two weeks, is it two weeks of the sittings or is it the normal calendar of two weeks.

It must also be defined as what the Standing Order is saying, two weeks of the sittings or of the Calendar, so that we don't compress Chege's questions into two weeks, *Mheshimiwa's* questions into two weeks, Ogeto's Questions into two weeks it means that the entire Executives will be before the Committees in these two weeks.

Hon Speaker, I think the Chairmen should be very serious or else we will ask the Majority Leader to give us a chance to put across a vote of no confidence on the Chairs who gives two questions on two weeks. With your indulgence without my Majority Whip to come, I was just asking guidance from the Hon. Speaker.

*(Laughter)*

**Hon. Temporary Deputy Speaker:** Hon. Senior Member and being a Senior Member of this House having been elected to the second House, I believe you know that issue is in the discretion of the Member requesting and the relevant Committee. So, if they agree with the two weeks that's it. No you cannot object to that you are Senior Member and a lot is expected from you. Thank you.

**Hon. Chege Mwaura:** Thank you, Hon. Speaker, I rise not to respond to my counterpart on the other end and I am not responding, it is just that as a Whip and part of the leadership that has ensured the House have very competent Chairs to run at the affairs of the Assembly. Hon. Speaker, realistically speaking a week from now means today is Wednesday, by the time we call the concerned officer is next Wednesday, or it is two days to the weekend and then next week on Monday and Tuesday, and Monday is usually a day for the Ward. So, if you are saying seven days it means Wednesday we should be having a realistic response.

So two weeks is not an extension and we are not stretching the law too much if it was more than two weeks I would then understand. So, with your indulgence let's give them time so that they also do some good job to this question. Hon. Speaker what I wanted to rise and speak about was with the regards to the question by Hon. Mwangi which I think we were on the same thinking on the issue because it is an issue on the legal fee. Also it is with the titling process of the National Government and the County Government are working together.

So, my proposal would be that as the Planning Committee sits to unravel the issue I think the Legal Committee can do a joint session so that all the issues with regards to the titling and legal fee charged can also be discharged in one go and what the proposal and recommendation from the Executive side on planning can also get the benefit of the legal officers in the same meeting. Therefore, that answer is one full answer that is comprehensive for his question and mine. If you have sufficiently seen the point I join the sitting if the Hon. Member is okay would be a good direction, Hon. Speaker.

**Hon. Temporary Deputy Speaker:** Thanks for the insight, I direct that the Planning Committee and Justice and Legal Committee have a joined sitting to handle the matter. Thank you. Statement by Hon. Peter Warutere! Use the mic Member.

**Hon. Peter Warutere:** Thank you Hon Speaker, on a light note I don't understand why you didn't see it in your wisdom on that issue we had dispensed with...

**Hon. Temporary Deputy Speaker:** Order Member! Kindly address yourself to the issue.

**Hon. Peter Warutere:** Thank you Hon Speaker, pursuant to Standing Order 45 (2) (c) I wish to request for a statement from the Chairperson of Sectoral Committee on Justice and Legal Affairs regarding the number of cases the County government has had and sums paid to external Legal Counsels over the last six years.

Hon. Speaker it is common knowledge that the County government of Nairobi from its days as defunct city council of Nairobi has been a cash cow for unscrupulous lawyers who collude with staff to levy exorbitant fees for matters involving County government or the defunct city council.

Hon Speaker as the mounting debts demonstrated by Munika and company advocates claims in 2013 suit that the County government had failed to settle a debt of Ksh 573m in legal fees owed by the County. In the statement the Chairperson should inquire into and report on the following and not limited to:

1. Cases the County government has had over the last four years;
2. Law firms contracted to handle the cases over the last four years;
3. Status of all cases involving the county government; and
4. Sums paid to each law firm or due and payable to the law firms currently contracted by the County government of Nairobi to handle the same cases.

**Hon. Temporary Deputy Speaker:** Chairperson, Sectoral Committee on Justice and Legal Affairs regarding the number of cases the County government has had and sums paid to external Legal Counsels over the last six years.

**Hon. Jayendra Malde:** Thank you Hon. Speaker, we need four weeks.

*(Laughter)*

**Hon. Temporary Deputy Speaker:** Hon. Warutere are you satisfied with the response by the Chairperson of Justice and Legal Affairs.

**Hon. Peter Warutere:** Well as much as I agree with the Chair that the matter might be as weighty I think four weeks is quite some time but I hope in their wisdom or of the Chairman there is something that he is seeing to it that he has to be given indulgence of a whole month to work on this issue. I know he is scared that the Minority Whip had alluded that two weeks should not be a custom and I think that is the fear that the

Hon. Chairman is having. I will settle for the whole month as it is and I hope he is going to give us a good job. Thank you.

**Hon. Temporary Deputy Speaker:** Hon. Imwatok, statement?

**Hon. Peter Imwatok:** Mr. Speaker I was rising on a Point of Order but now I have to put across my statement by saying, number one congratulations for being on the Chair and I can see the stature of a real man I know.

Chair pursuant to Standing Order 41(2) (c), I think this statement is more or less similar to the one of *Mheshimiwa* Warutere but this one is distinct on the explanation I will give. I wish to request for a statement from the Chairperson of Sectoral Committee on Justice and Legal Affairs regarding the payment of legal fees to various lawyers involved in the County litigation this year.

Hon Speaker the County legal fees malice is well known and the rot in the sector is well established. A dangerous trend is creeping back where private lawyers connive on litigation matters. Even the lightest issues is given to seven law firms or lawyers. They then charge exorbitant fees which would have gone a long way in providing services. For instance, in the recent anti-corruption case involving improprieties in procurement of medical insurance cover, case 8 of 2018.

Hon Speaker in this statement the Chairperson should inquire into and report on:

1. Amount paid or due for payment for the lawyers who litigated for the County in the matter particularly :
  - i. Musyoka Mogaka and company advocates
  - ii. Harrison Kinyanjui and company advocates.
2. Reasons why the county continue to engage costly private lawyers when the County has a fully-fledged legal department; and
3. Who authorized the use of the many lawyers and how many County involved cases have the multiple counsels and their costs therein.

Mr. Speaker I have raised this statement as a matter of urgency and I think I have consulted the Chair of Justice. As you are aware our financial year is ending this weekend midnight 2018 June 30<sup>th</sup>. I am aware with full information that the two law firms involved might end up with over Ksh. 100m from the County government. Therefore Speaker I would want the Chair of Justice not to give two weeks because if they want information they just go to the County Attorney, get the information and deliver to the Assembly tomorrow to save Nairobians.

**Hon. Temporary Deputy Speaker:** Hon. Member kindly let the Chair to respond to that matter.

**Hon. Jayendra Malde:** Thank you Hon. Speaker, at least we will need one week for this matter.

*(Laughter)*

**Hon. Peter Imwatok:** Chair with all due respect let us not make a joke. We want to corroborate this information we have to protect because the information I have that one lawyer has raised a fee note of Ksh. 45 m to the County government. Another one has raised a fee note of Ksh. 35m and this money is premised to be paid before 30<sup>th</sup> June 2018 which is this weekend. We cannot sit down as Members of the County Assembly and wait to litigate or talk about this when the money has gone. And by the way, the case involved

here took less than 15 minutes in a court of law and one law firm is bringing a fee note of more than Ksh. 45m. Mr. Speaker, allow the Chair to be very serious on this matter.

**Hon. Temporary Deputy Speaker:** Hon chair?

**Hon. Jayendra Malde:** Thank you Hon Speaker, thank you *Mheshimiwa* Imwatok but still...

**Hon. Temporary Deputy Speaker:** Kindly exercise some silence Minority Whip.

**Hon. Chege Mwaura:** Mr. Speaker allow me to raise a Point of Order on the question of my counterpart. We cannot allow a certain trend to take root. Much as we want answers for questions you were very clear that the Minority Whip has even said he has information that this money is going paid at a certain date. If the Whip has information that can help this House and unravel whatever he has in question he should come forward and present, not ask a question with an end in mind. I say that as a matter of procedure and he knows I have nothing against whatever he wants to ask.

This is a transparent government that wants to dispense and open up everything that we are doing but if the Whip has a question he wants to ask let the Chairman and Committee of Justice give a realistic timeline to be able to answer those question because at end of the day it is not the business of the Committee to engage a lawyer that was given a job to do by the Executive since there is a proper process for that. If the process was faulty let the Minority Whip come out clearly and pinpoint where there is a problem in the process of payment. It is imperative to note that the question he is asking about is a litigant in that query. Where is the place of interest, personal interest in the question he has asked? If there is conflict of interest let it be pointed out and he should declare whatever interest he has so that we do not take this House as a place for settling scores in a matter that he lost. Thank you.

**Hon. Temporary Deputy Speaker:** Minority Whip kindly resume your seat. Hon Chege Mwaura first the issue is weighty and two with all due respect to the Member who raised the issue there is another matter arising. The issue is already in court. I don't think we can have a discussion on the same. I have also noticed the issue is similar to matters asked by other Hon. Members. If the issue is time we can discuss with Hon. Chair on whether he is comfortable or agree at a particular time then the matters can be handled at that committee level. But if at the end of the day it is true that you're an interested party in the case...

**Hon. Abdi Hassan:** Mr. Speaker the matter is weighty. The person who raised the question as my able Whip has put is a litigant questioning the lawyers who put him down because he lost the case. This House cannot be used to settle personal scores. The lawyers won against him in the courts and now he wants to use this House to settle his own scores. It should not go that way Mr. Speaker sir.

**Hon. Temporary Deputy Speaker:** Hon Minority Whip in as much as you want the issue to be addressed but I would also like you to declare if you have any interest in the same issue.

**Hon. Peter Imwatok:** Thank you. Speaker let me put it clear in daytime...

**Hon. Temporary Deputy Speaker:** Are you first declaring the interest or...

**Hon. Peter Imwatok:** Allow me to address as I declare my interest. I do not declare interest at this point. My interest on this point is very clear. I was rising on the argument of the Chair, not the substance of the statement. Therefore Speaker the issue raised here is under the Constitution, and as my role as MCA for Makongeni that I have to oversight the government of the day.

**Hon. Temporary Deputy Speaker:** Order Members! Just as I had indicated before, you [Minority Whip] are a senior member in this House so a lot is expected of you. Under Standing Order 95 it clearly indicates that a Member who wished to speak on any matter to which the Member has a personal interest shall first declare the interest and as I had said you declare it first before you proceed on the matter. We cannot open a debate on that issue please, kindly.

**Hon. Peter Imwatok:** Let me declare not per se the interest but being part of this litigation. I said in my statement that yes indeed I have interest on this...

**Hon. Temporary Deputy Speaker:** Kindly Hon. Member can you kindly declare your interest?

**Hon. Peter Imwatok:** I have just said I have no interest on the way the lawyers are paid. My interest here is how the public is going to benefit from this money. Going to the substance of my statement, my statement was asking Justice and Legal Affairs for a report on this and my interest was before a court of law and the court ended there. Even me I had a legal fee to pay so you cannot say I have interest on this. What we want to know is Nairobians in the next three days are losing more than Ksh. 100m on two lawyers which is not value for money. It is serious. It is the same issue coming up in County again.

**Hon. Temporary Deputy Speaker:** Hon. Member I cannot allow further debate on the same and I have given clear instructions that you declare but since you are not coming up straight to declare your interest let us put that matter to rest. It is going to go on record that you haven't declared. *(Loud consultations)* Ok, the Member has declared. The Chair, are you going to respond to his issue in fewer days?

**Hon. Jayendra Malde:** Thank you Hon. Speaker I said one week. It is a weight issue so we hope to investigate further.

*(Point of Order)*

**Hon. Chege Mwaura:** Mr. Speaker we do have media section in this Assembly and all these things we talk here end up and are expressed in media. It is important that the directions we give are very clear. You have clearly heard the Member say that he has a pecuniary interest in the matter and having said that I would suggest that a proper communication for the purpose of posterity be made so that we do not get ourselves, in future, with issues for people who do have personal vendetta or interest expressing them here.

I was suggesting that can you give us a proper communication on the matter. And in future can we be getting the questions circulated because when we have names of lawyers who cannot defend themselves being listed in this House it is very unfair. I do not have a problem with us giving us an example in one week but in event that the Committee cannot give us an answer within one week the said Member will put us on the spot. We cannot allow ourselves as leadership to put the government side on the spot. Mr. Speaker I plead with you that you drop the question until further communication is done on the same question. The Leader of Majority says he wants to inform me and I want to be informed.

**Hon. Abdi Hassan:** Mr. Speaker sir, the Standing Orders are very clear. Standing Order No. 95 (1) and (2) is very clear, the Member has declared interest on the floor of the House, so this Motion should be dropped and he should go and register with the Clerk's office the way the Standing Orders say so that we can start from that end because we need to follow these Standing Orders—

**Hon. Temporary Deputy Speaker:** Order Members! Hon. Members this is a House of rules and procedures. Under Article 95, the Member has declared his interest, the right thing to do is for the Member

to follow the provisions of Article 95 and register the interest with the Clerk. The statement is suspended until the interest is confirmed and registered with the Clerk. It is so directed, we move to the next order.

*(Hon. Peter Imwatoke spoke off the record)*

**Hon. Temporary Deputy Speaker:** Minority Whip I am just following the rules and the procedures. If the procedures clearly indicate that you need to do--- Hon. Member I am giving directions. I am saying, Hon. Okeyo, kindly with all due respect I am saying this House is governed by rules and procedures and I am making a ruling. It is so directed we move to the next statement.

*(Hon. Peter Imwatoke spoke off the record)*

**Hon. Temporary Deputy Speaker:** I have already given directions with all due respect. Hon. Senior Member I have said I am following the rules and procedures. Kindly Hon. Ogeto assist or lend the Hon. Minority Whip with the Standing Orders. Let's proceed with Hon. Benson Mwangi's statement.

**Hon. Benson Macharia:** I think this House is soon turning out to be a market place because of the noise. Mr. Speaker the statement that I am about to request is very important because it involves the lives of people in my Ward; it involves the properties of investors in my Ward and other Wards. So, it is a very urgent question---

**Hon. Temporary Deputy Speaker:** Proceed Hon. Member.

**Hon. Benson Macharia:** It is a very urgent question in which not only the relevant Chairpersons but also the House leadership, I would like the leadership to intervene in this issue, Mr. Speaker. In my statement pursuant to Standing order 45 (2) (c), I wish to request for a statement from the Chairperson of the Select Committee on Budget and Appropriation regarding the payment by the County Executive to Kiambu Dandora Farmers.

Hon. Speaker the defunct Nairobi City Council reached an out of court agreement with the National Land Commission to pay Kiambu Dandora Farmers for the land developed and occupied by the said group in Kariobangi South, Civil Servants, Umoja II, Mowlem, KCC Estate among other areas. Hon. Speaker in the statement the Chairperson should inquire into and report on:

1. Whether there was such an out of court agreement and if there was, prove be provided;
2. The amount of money that was initially meant to be paid to Kiambu Dandora Farmers and amount paid so far if there is any; and
3. Establish the basis upon which the out of court agreement if there is was reached given the land in question which the Kiambu Dandora Farmers is laying claim was purchased by the government in 1974.

I beg to lay my statement Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Chair Justice and Legal Affairs, Hon. Malde.

**Hon. Jayendra Malde:** Thank you Hon. Speaker. I think the question was for the Budget Chair or was it for me?

**Hon. Temporary Deputy Speaker:** Chair Budget.

**Hon. Robert Mbatia:** Thank you Hon. Speaker. We commit to give a comprehensive answer, the Member to give us 12 plenary days.

**Hon. Temporary Deputy Speaker:** Hon. Benson, are you satisfied?



**Hon. Benson Macharia:** Mr. Speaker I am satisfied with it and also I would like the Budget Chairman to engage also the Planning department about this matter because this is a real issue which if not well taken care of--- Mr. Speaker this is an issue which has caused chaos especially in my Ward because these guys who are claiming to be Kiambu Dandora Farmers have started forcefully evicting people from their properties and they are being given protection by some of the County officials and government officials.

For me Mr. Speaker, on a Point of Information, my able Member of Parliament has also taken this issue to the National parliament and in their defense, the NLC is also saying that they reached an agreement with, the County government of Nairobi reached and the Kiambu Dandora Farmers to pay them. It is one of their defense in the Land committee in the National Assembly. So, for the period that my able Chair of Budget has given---Mr. Speaker I am on the mike. I would like to finish and then he will continue.

*(Point of Order)*

**Hon. Temporary Deputy Speaker:** What is your Point of Order Hon. Ogeto?

**Hon. Moses Ogeto:** Mr. Speaker what I am requesting, I am on a Point of Order under Standing Order No. 44, because we have very serious business that we need to conduct in this House. Look at Motion No. 8 and 9.

**Hon. Temporary Deputy Speaker:** What is your Point of Order Hon. Member?

**Hon. Moses Ogeto:** I am requesting Mr. Speaker with your convenience and permission to change the sequence of the Order of the day so that we can be able to dispense these issues because the budget should be read by the end of this month.

**Hon. Temporary Deputy Speaker:** Most obliged.

**Hon. Moses Ogeto:** Thank you.

**Hon. Temporary Deputy Speaker:** Hon. Benson I hope you know that when the Chairperson of Budget indicates 12 plenary days, it clearly stipulates it is going to take 4 weeks. So, later on you have said the issue is weighty, are you comfortable with 4 weeks?

**Hon. Benson Macharia:** Mr. Speaker I know the issue is weighty and he needs to dig deep.

**Hon. Temporary Deputy Speaker:** Are you comfortable with the 4 weeks in the interest of time?

**Hon. Benson Macharia:** For the documentation purposes, I will give it may be three days, or may be next week because it is just a matter of collecting the documents.

**Hon. Temporary Deputy Speaker:** Kindly Member three days for him to have responded to your statement or---

**Hon. Benson Macharia:** No. Mr. Speaker if you read my statement correctly, there are some documents that I require from the Budget Committee; the proof of payments, indeed there were Mr. Speaker...

**Hon. Temporary Deputy Speaker:** Chair Budget are you able to handle the matter in three days?

**Hon. Robert Mbatia:** I want to be very sincere. As the Minority Whip puts it, you have to give a 7 days' notice to the members of the Executive to give an answer or to come before you. So, I still stand with the 12 plenary days, I will give a comprehensive answer, Bwana Speaker.

**Hon. Temporary Deputy Speaker:** Hon. Benson, are you satisfied? Okay. In the interest of time we are going to have the responses tomorrow, so we are going to the next order.

## MOTION

### ADOPTION OF THE 7<sup>TH</sup> REPORT OF THE SELECT COMMITTEE ON COUNTY FINANCE BUDGET AND APPROPRIATION AND THE SECOND SUPPLEMENTARY ESTIMATES FOR THE YEAR 2017-18 FOR THE NAIROBI CITY COUNTY ASSEMBLY

**Hon. Temporary Deputy Speaker:** Adoption of the 7<sup>th</sup> report of the Select Committee on County Finance Budget and Appropriation and the Second Supplementary Estimates for the year 2017-18 for the Nairobi City County Assembly. Chair Budget?

**Hon. Robert Mbatia:** Thank you Mr. Speaker. I beg to move the following Motion; THAT this Assembly adapts the report of the Finance, Budget and Appropriation Committee on the consideration of the Budget Estimates for the Nairobi City County Government and the Nairobi City County Assembly for the financial year 2018-19.

Mr. Speaker, in the financial 2018-19, the total County budget is projected to stand at 34.32 billion out of which 23.396 billion has been earmarked for the current expenditure while Ksh.10.836 billion is set for development expenditure which stands at 32%. The budget estimates have envisaged that the financial 2018-19, the total County revenue shall comprise of Ksh.16.5 billion from the National government transfers and Ksh.17.37 from the internal sources making the total revenue envelop to stand at Ksh.33.87 billion. There is proposed appropriation in aid of Ksh.346 million to take care of activities related to liquor licensing thereby adding up the total revenue resource envelop to Ksh. 34.2 billion.

Mr. Speaker in the recommendations the remainder of this report should be construed as an amendment on the submitted budget estimates for the financial year 2018-19 with an aim of ensuring that it is aligned to the County Fiscal Strategy Paper and other County planning documents while taking into account the recommendations of the County Executive Committee Member for Finance, the sectors, the sectoral committees and the general public.

On policy matters Bwana Speaker and I will be very brief. The Committee noted various critical issues during the consideration of these estimates which we would like to be addressed. In addition to the proposals contained in the body of this report, the Committee proposes that the Assembly resolves as follows:

1. That the County Executive immediately implements the resolutions of the County Assembly on revenue management contained in the report of the Public Accounts Committee on the consideration of the report of the Auditor General on the financial statements for the financial year 2015-16;
2. That the County Government complies with guidelines provided by the National Treasury by ensuring that the Procurement Department is domiciled in the County Treasury. This would ensure that there is connection between the Budget allocation approval and utilization;
3. That going forward the County Secretary and the County Treasury and the Head of Supply Chain shall ensure that pricing levels for the supply of goods and services is based on the most recent and accurate market survey;

4. That the sectors shall ensure that costs of projects are based on market surveys approved budgetary allocation and adapted procurement plans;
5. That the County finalizes the County Asset Register and the same be forwarded to the County Assembly by the County Secretary before the end of the first quarter of the financial year 2018-19;
6. That the County Secretary initiates and implements control to ensure that procurement processes, payment processes and other financial management procedures are followed in line with the provisions of the Public Finance Management Act 2012 and the Public Procurement and Asset Disposal Act 2015.
7. That all sectors prioritize completion of rollover projects before initiating any new projects in the new financial year 2018-19;
8. That the County Treasury undertakes comprehensive capacity building for the County Chief Officers and sector accountants on the budget process;
9. That the CEC Member for Finance and CEC Member for Urban Planning and the Head of Procurement undertake internal functional audit and assessment in view of improving their efficiency and effectiveness regarding implementation of the sector budgets in liaison with the respective sectors;
10. That in compliance with provisions of Section 148 of the PFM Act 2012, the CEC Member Finance to do assign full accounting functions to all Chief Officers in the County government
11. That the County Public Service Board immediately makes a decision and report to this Assembly on the confirmation or otherwise of officers currently serving on an acting capacity in the County government;
12. That measures be initiated by the County Executive to ensure that procurement procedures are not delayed leading to stalled sector approved projects.
13. That going forward pending bills be allocated funds at the point of their sectors where they are generated;
14. That the Public Service Management develops a policy to guide the voluntary early retirement and forward the same to the County Assembly by the end of this financial year ending 2017-18;
15. That the County Treasury undertakes an evaluation of the Ward Development Fund with a view of enhancing performance, reducing political interference and making it more impactful to infrastructural development;
16. That the County Executive Committee Member for Finance ensures that all expenditure commitments be periodically matched to the expected revenues taking into consideration changes in the economic environment that may affect revenue collection;
17. That revenue mobilization should be enhanced to ensure that sectors continue to implement projects without any cash flow limitations; and
18. That in compliance with the provisions of the regulation 35 of the PFM County Government of 2015, the County Treasury shall submit to this Assembly an Appropriation Bill that contain votes and programmes of the financial year.

## PROPOSED ADJUSTMENTS AND REALLOCATIONS IN THE YEAR 2018-19 BUDGET ESTIMATES

### EXPENDITURE REALLOCATIONS

#### Under the Finance and Economic and Planning Sector

- That the revenue potentials study enterprise census to retain Ksh.120 million provided for in the financial year 2017-18 that cannot be utilized due to time constraints.
- That 20 million for developments and management of County statistics in the Economic Planning Department be provided
- That an additional Ksh. 15 million be allocated for recruitment of 10 No. of Economists and Statisticians
- That the County fast tracks decentralization of the Economic Planning functions to the sub-counties
- That the County Executive activates the external resources unit for the greater capital information for rapid sustainable development in line with SDG No. 11
- The additional allocations sought be rationalized from Ksh. 255,887,676/= available for pending bills
- That under the Public Works, Transport and Infrastructure Sector, all the street lighting projects be expunged from the budget, except for Mihan'go, Dandora II, Embakasi and Utawala Wards which are ongoing projects, the amount be reallocated to procurement of electrical maintenance materials and equipment. These materials and equipment will be used for maintenance of the existing lights across the County.

Mr. Speaker I need your protection, you are already smiling because of Dandora II being mentioned.

- That Ksh.500 million be allocated for Nairobi Regeneration Programme.
- That under Urban Planning Sector, Ksh.90 million be allocated for implementation of the new plan be reduced by Ksh.60 million and the amount be added to the allocation for purchase of heavy duty vehicles and equipment for demolition of buildings.

In line with the provisions of Section 131 (3b), the Committee recommends that the overall County budget be reduced by Ksh.2 billion to Ksh. 32.3 billion as per the programmes summary hereby attached and further that the following amendments be made in the sector budgets.

#### **On expenditure reductions;**

That recurrent budget for the County Assembly Service Board be reduced from Ksh. .585 billion to Ksh. 1.387 billion. The County Assembly budget is therefore reduced from Ksh. 2.177 billion to Ksh. 1.978 billion. This is meant to ensure that the recurrent budget for the County Assembly is aligned to the ceilings approved by parliament in the County Allocation of Revenue Act 2018.

That the following recommendations be made in the Trade, Tourism and Cooperative Sector:-

- Allocations for refurbishment of City Hall mezzanine offices be reduced by Ksh. 10 million
- Allocation of Ksh. 15 million for rehabilitation of Kahawa West market be knocked off the budget

- The allocation for rehabilitation of Jogoo road market be reduced by Ksh. 10 million
- The allocation for Kariokor market Leather Works Facility be reduced by Ksh. 5 million
- The allocation for revolving funds be reduced by Ksh. 10 million

**Expenditure increases;**

That the following amendments be made in the trade, Tourism and Cooperatives sector budget:-

- The allocation of Dandora Market E (Extension) be increased by Ksh. 15 million;
- Modern kiosks be increased by Ksh. 10 million; and
- Ksh. 15 million be allocated to the construction of Ngumba Market as a rollover project.

That the Ward Development Fund project be rationalized to provide for the following ongoing projects in the respective wards:-

- Ksh. 15 million for rehabilitation of Makongeni Sports Project
- Ksh. 16.7million for rehabilitation of selected roads in Mlango Kubwa ward
- Ksh. 14.2million for construction of Modern Social Hall in Kahawa Ward; and
- Ksh. 16.8 million for rehabilitation of Cabro Road in Highrise Ward

That under the Education sector the amount for bursary be increased for Ksh. 170million to Ksh.340million to fully cater for the needy and bright students of the vulnerable groups identified in our society.

That under the Environment sector, an additional Ksh. 265 million be allocated for development to guarantee equitable distribution of ward based projects within all 85 wards at Ksh. 7 million per ward

That under Public Works, Transport and Infrastructure sector, an additional Ksh. 500million be allocated for Nairobi Regeneration programme.

That under the Health sector and in giving life to the Universal Health coverage contained in the CFSP, seed funds of Ksh. 25.5 million be set aside to cater for NHIF contribution for 50 poor households per ward for the FY 2018/19.

Bwana Speaker in conclusion and pursuant to the provisions of section 131 (1) of the Public Finance Management Act 2012 and Standing Order 222 (6) the County Finance Budget and Appropriations Committee recommends that this County Assembly adopts the report of the Finance, Budget and Appropriations Committee on the consideration of the Budget estimates for the Nairobi City County Government and County Assembly for the FY 2018-19

Mr. Speaker, as I finish. I would request my dear brother Hon. Ogada to second me. Thank you Bwana Speaker.

**Hon. Temporary Deputy Speaker:** Seconder.

**Hon. Micheal Ogada:** Thanks a lot Bwana Speaker. I have several issues as to why I will second the Motion. When you look at the current budget as has been presented by our able Chair then you will realize that it is quite realistic one. We have had two supplementary budgets as a result of having budgets

which are not attainable and for that matter, the Budget Committee rose to the occasion and managed to do a budget at Ksh. 32 billion. Basically we think that that is appropriate and can be achieved. When you look at the document, you will realize that key sectors like Transport, Health, Education and Environment have got adequate allocations and this augur well with the citizens of our great County and with that I think that Nairobi is good to go. Also, when you look at the Ward based projects such as the water sector. Previously we were being given Ksh. 3million per Ward and that has now increased to Ksh. 7million and I think that is something worth lauding as a result of the document that we have. We have bursaries which stood between Ksh. 3 million to Ksh. 4million annually.

The current budget has increased that and it means that the Assembly is caring for the bright children from poor families and also all the children who are not able to access education. The Budget Committee managed to ensure that the overheads that has been squandering most of the budget has been reduced from the normal Ksh. 25billion to Ksh. 21 billion and as a result of that, the development fund has been increased from Ksh. 8billion to Ksh. 10billion. This shows that we are struggling to ensure that Nairobi is a place that is worth living. In terms of development in that sector, they overshot the ceilings and I know that our Chair is alive to that and we are going to ensure that the ceilings are relooked at so that everything is within the ceiling.

Bwana Speaker, let us come back to the issue of revenues. We have had a very good budget in terms of what we want to do. What remains is, are we ready to finance it? That is the issue and that is why you will realize that the County is lagging behind in terms of development. Not because they don't want to but because they are not able to raise the required money in order to finance development issues. What we have is only spent as recurrent expenditure. As we speak, the financial year is ending in 3-4 days and as we speak, the County has not been able to hit Ksh. 9billion. As it is, we are standing at around Ksh. 8 billion against the Ksh. 15 billion that was budgeted for. We are anticipating collecting around Ksh. 17billion locally and by the look of things then there is a problem. I encourage the leadership of the Assembly to put in place measures to ensure that revenue is collected to the optimum so that residents of Nairobi can benefit from the fruits of devolution.

I will go further to beg my senior, the Majority Leader to help us because we make a lot of efforts and the problems that we have are not sorted then we will need to revisit. We talk about revenue collection with Ksh. 8 billion and yet we used to hit Ksh. 12.5billion. This means there is a reduction of Ksh. 4 billion. So, can we go down and find out what is causing this problem. Some of these issues are caused by the policies that we made making payments in the County become more expensive. You can make make payment or bringing money to the County more expensive and cheaper to bribe. When I released that it is cheaper to bribe a County officer then that is what I will do. I will not waste my time going to the bank and queue for a long time. Majority leader, I direct that to you. You need to assist the Assembly to look at ways of ensuring that small monies reach the County kitty. Let us not have a paperless society when some people have not reached that level.

Bwana Speaker, I am of the opinion that we make some of these things easy. Let us even make one door at the cash office operational to allow small people to come and pay instead of going to queue with Ksh. 200 in the bank. These are the kind of policies that do not work. Let us not stop it because in the US they do



not accept such policies. They are 400 years ahead of us. We are not the US but Nairobi. So, these are some of the key issues that we need to look at. Therefore that is a request that I am putting across to the Majority Leader and the Chair or else we will be doing great budgets but will not be able to fund them and when we go back to the ground, the people will not care which party we represent but whether we performed or not. We all belong to parties and people go home. Let us try to ensure that the County of Nairobi is shining above in terms of revenue collections and budget implementation. Bwana Speaker with those few remarks, I beg to second.

**Hon. Temporary Deputy Speaker:** Hon. Speaker, you must have noticed that the Hon. Chair dispensed off order number 9 instead of 8. I would therefore like to accordingly adjust the Order Paper to that effect.

*(Question proposed)*

**Hon. Temporary Deputy Speaker:** It seems there are no requests.

**Hon. Patrick Karani:** Thank you Mr. Speaker. I rise to support and to emphasize on what the Hon. Member for Embakasi has said. We have a very good budget estimate. The figures are very nice and now the problem that could arise and those we wish to bring to the attention of this House is that after passage of this budget. We are going to enter the phase of budget implementation or execution and a challenge will arise when we will not be able to supply the budgetary needs in terms of resources. There are monies we receive from the National Government which our equitable share and the monies we collect from our own sources and that is where we have a problem. This House has adopted a report to send Jambo Pay home but we are still waiting for that to be implemented. Mr. Speaker, I say this with a lot of facts and evidence.

The current revenue collection system as it is will take Nairobians nowhere. For instance, in Utawala Ward we have 384 single business permits (SBP) whereas we have many businesses running there. I was shocked and I am privy to the information that our revenue collection system has got 170 registered businesses for the entire Nairobi. It is therefore time as we pass this budget that we give these sectors the opportunity to commit. A commitment is an obligation to incur an expense and so if we are not able to provide funds from our side then we will have issues of pending bills simply because we are not able to raise the funds. So, after the passage of these estimates then it will be necessary for the Executive to make sure that policy recommendations are followed up and implemented to the later so that we are able to meet our budgetary requirements. With those few remarks, I support. Thank you.

**Hon. James Mwangi:** Thank you Hon. Speaker.

**Hon. Temporary Deputy Speaker:** Proceed Hon. Kagis.

**Hon. James Mwangi:** Thank you Hon. Speaker. Under Standing Order 100; after the question on a Motion of which has a right to reply has been proposed, a Member rising in his or her place may claim to move "That the mover be now called upon to reply"

**Hon. Temporary Deputy Speaker:** Hon. Member. Let us give other Members time to give their input. Hon. Azangu

**Hon. Herman Azangu:** Thank you Mr. Speaker. I stand to support the Motion since it cuts across the Wards. We also have water related projects from the budget. I put across the problems which the Executive face when they want to implement the projects. They get the budget but cannot implement it fully because of delay in procurement process. This time we want see whether they will do the implementation properly. The budget is good for the MCAs, therefore, I request Members to support the Motion. Thank you, Mr. Speaker.

**Hon. Kennedy Obuya:** Thank you, Mr. Speaker, I rise to support the Motion. I was just consulting the Chair of Budget that the budget has got good intentions to better the lives of Nairobians. As a representative of Imara Maima Ward, my Ward does not benefit directly in this budget but I consulted widely and I was advised this is meant to specifically capture the previous prospects of the last financial year. I will support it because I have confidence that in the near future, the people that elected me will be considered.

Mr. Speaker, as a matter of concern, there is a confusion that we cannot let it go without registering it with the Hansard. For purpose of record, yesterday our CEC Finance, Hon. Kerich told us that our revenue collection for this financial year is more than Ksh.8 billion. As a Committee of ICT, we were privileged to meet our biggest service provider on revenue collection, Jambo Pay. It is very confusing that Jambo Pay in their platform, the County Government of Nairobi, this year alone, from January to yesterday, had collected Ksh.6.7 billion. For this financial year, 2017/2018 which is ending in three days' time, we have collected more than Ksh.14 billion. So, Mr. Speaker, through your guidance, the Chair of Budget and the Leader of Majority, the Leader of Minority, and the Chair of PAC should give proper guidance because there is a confusion and big margin between the CEC Finance who he is saying we have collected revenue of more than Ksh.8 billion and our service provider for revenue collection who says we have collected Ksh.14 billion. This is a matter of concern that I cannot let it go.

I beg to support and kindly let this matter be looked into. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** The mover to reply.

**Hon. Robert Mbatia:** Mr. Speaker, I want to appreciate first the Members of this Assembly for the support they have given the budget process at the sectoral committee level and even at the plenary. I also want to appreciate the Members of the Finance, Budget and Appropriations Committee for the midnight oil they burnt through this process. I also want to appreciate our secretariat which worked hand in hand with us. I would also want to thank your office, Mr. Speaker for the support you have given as we went through this process.

Mr. Speaker, much has been said but always as we say, now the implementation process is where the rubber meets the road. We want the people of Nairobi to appreciate us or hate us in this. We need to fund this budget. We found reason in reducing from Ksh.34 billion to Ksh.32 billion but as the previous speaker said, the reduction of Ksh.2 billion still indicates that there is some local revenue to be generated. And from Hon. Obuya's contribution a few minutes ago, he said there was already a big difference between what is being quoted by one office and the other agency. So, matters of funding the budget is key in this.

I want to request that as we support and as we implement this budget, every Member of this Assembly plays their part. If it is at sensitization of the members of the public on the need to pay for the cess,

the fees and charges, they pay and support that. I heard a Hon. Member confessing that he has not paid land rates for several years.

On oversight, Mr. Speaker, we need to play our big role at this point by keeping the Executive on toes on the implementation of this budget and mostly on revenue generation.

Without much ado, I thank everyone and I support. Thank you, Mr. Speaker.

*(Question put and agreed to)*

**Hon. Temporary Deputy Speaker:** Next Order.

ADOPTION OF THE REPORT ON THE SECOND SUPPLEMENTARY BUDGET ESTIMATES FOR THE  
FINANCIAL YEAR 2017/2018

**Hon. Robert Mbatia:** Mr. Speaker, I beg to move the following Motion; THAT this Assembly adopts the report of the select Committee on Finance, Budget and Appropriations on the Second Supplementary Budget estimates for the financial year 2017/2018 of the Nairobi City County Government and County Assembly. Mr. Speaker, the revised County stands at Ksh.33.6 billion while the recurrent of the same stands at Ksh.25 billion and development at Ksh.8.3 billion. In the approved figures, the County Assembly had granted authority for expenditure on rolling out of the bursaries fund, implementation of the emergency fund, ensuring that County employees access high quality medical insurance, delineating resources for sorting out the City water infrastructure as well as supporting a mirage of devolved functions.

Mr. Speaker, the Second Supplementary Budget estimates have been submitted to among others provide basis for payment of various Ward Development projects budget that have been undertaken certificate raise but could not be paid due to technicalities surrounding the implementation of the Ward Development Fund Act, 2014. During this exercise, the Committee heard from the County Executive officials on how the Controller of Budget has been reluctant to release allocations for projects under the fund. It is for this reason that the County Executive agreed with the select Committee on Ward Development Fund that the amounts be transferred to the Transport sector for ease of requisition and payment. In this regard, there is proposed reallocation of Ksh.755 million for the Ward Development Fund vote to the Transport and Public sector for payment of complete projects. It is noteworthy that the amount transferred represents the quantum of the projects thus far undertaken through the fund and are due for payment.

Mr. Speaker, the County Executive submitted that the amount set aside for payment of utilities to Kenya Power has also been proposed for an upward revision by Ksh.100 million. The amount has been reduced from the Ksh.120 million allocated for enterprise survey which cannot be fully rolled out in the current financial year. This represents the factum of the supplementary in addition to the minor reallocations that have been done across various wards to reflect the expenditures incurred between time of the First Supplementary Estimates and the Supplementary Appropriation Bill when it was ascended.

Mr. Speaker, in conclusion and pursuant to provision of Section 135 (2) and provision of Section 135 (4) of the Public Finance Management Act, 2012 and the Standing Order 228, the County Finance, Budget and Appropriations Committee recommends that this County Assembly adopts the report of the select

Committee of Finance, Budget and Appropriations on the second Supplementary Budget estimates for the Nairobi City County Government and the County Assembly for the financial year 2017/2018.

Hon. Speaker, I beg to move and request my sister, Hon. Emily Oduor to second me.

**Hon. Emily Oduor:** Thank you, Mr. Speaker. Hon. Members, this is what we have been waiting for. I can read the mood of the House and the big smile of Majority Leader. This Committee has done a very good job. Once again, we have taken care of the WDF, and bursaries. I think in the last two weeks, we have had a lot of problems in this House where Members have been making a lot noise because of bursaries. On a light note, I think we might not have another issue of being cut off by Kenya Power which has embarrassed this County. We have given them something with the hope that they will not embarrass us again soon. Otherwise, I think everybody is happy with this and I beg that you will all agree with it. I beg to second. Thank you, Mr. Speaker.

*(Question proposed)*

**Hon. Jeremiah Themendu:** Thank you, Mr. Speaker for giving me this opportunity. I rise to support the Motion. First, I thank the Committee on Finance for the job they have done by seeing through this financial year. By not passing this budget, our wards will suffer a lot. Although some of our Wards are not captured in this budget, but I think Nairobian will be happy by the same. I believe in future, our Wards shall benefit in the 2019/2020 budget. I beg to support.

**Hon. Leah Supuko:** Mr. Speaker sir, I rise to support the Motion. I would like to thank the Committee on budget for the good job they have done. What I noticed in the budget are very touching areas especially the Ksh.25 charges being levied on Mama Mboga abolished. I also noticed that they got the concern of the *mwananchi* on issues concerning shopping carriers. To the ladies in the House and those good men who go for shopping because not all men go for shopping, you have noticed of late that since when plastic paper bags were banned, if you go to a supermarket you are told to buy a shopping carrier bag. This is not appropriate because before the plastic papers were banned, we were being given free and in plenty. That was a bright idea by the Budget Committee.

The other important thing I noticed in the budget is the free ECDE. It is really a good thing to the concerns of the parents in our City. I beg to support the Motion and commend the Committee for the good job done. Thank you, Mr. Speaker sir.

**Hon. Temporary Deputy Speaker:** The mover to reply.

**Hon. Robert Mbatia:** Thank you, Mr. Speaker. I first want to request that the two Hon. Members that have contributed that their contribution is weighty and key, but having been under Motion No.9, may be it should be expunged and be put under Motion No. 9 because we are in Motion No.8 at this point on the Supplementary Budget II.

Mr. Speaker, I want also appreciate again the Members for the support. We had a joint sitting between WDF and Roads, Transport and Infrastructure Committees which we deliberated on this and we moved very fast. On this Supplementary Budget II, most of these are matters appropriation because we are only remaining with only a few days to the end of this financial year. So, we request the members of the

Executive on whatever they have requested that we reallocate for appropriation, they move with speed and bring the Appropriation Bill to us so that we can pass it so that it ascended and they can be able to appropriate before the year ends. Mr. Speaker, I thank this Assembly.

*(Question put and agreed to)*

### **ADJOURNMENT**

**Hon. Temporary Deputy Speaker:** The House stands adjourned to tomorrow, 28<sup>th</sup> June, 2018 at 2:30 p.m.

*(The house rose at 5:00 p.m.)*